

Chapter CX^C.¹

PROCEDURE OF THE ELECTORAL COUNT.

1. Statutes governing the casting and transmittal of electoral votes. 438–441.

438. The statutes designate the time for the choice of electors of President and Vice President and the time for their meeting to give in their votes.

A controversy in any State over the appointment of presidential electors settled in accordance with a law of that State six days before the time for the meeting of the electors shall not be a cause of question in the counting of the electoral votes by Congress.

The act approved May 29, 1928,² provides:

That the electors of President and Vice President of each State shall meet and give their votes on the first Wednesday in January next following their appointment at such place in each State as the legislature of such State shall direct.

439. The executive of each State is charged with the duty of transmitting to the Secretary of State of the United States a certificate of the appointment of electors and the names and votes; and of delivering a similar certificate to the electors.

It is the duty of the executive of any State wherein there may be a controversy as to the appointment of electors to transmit to the Secretary of State of the United States a certificate of the determination thereof.

The Secretary of State is required to transmit to Congress copies of certificates received from the State executives relating to the appointment of presidential electors.

The act approved May 29, 1928, provides:

That it shall be the duty of the executives of each State, as soon as practicable after the conclusion of the appointment of the electors in such State by the final ascertainment, under and in pursuance of the laws of such State providing for such ascertainment, to communicate by registered mail under the seal of the State to the Secretary of State of the United States a certificate of such ascertainment of the electors appointed, setting forth the names of such electors and the canvass or other ascertainment under the laws of such State of the number of votes given or cast for each person for whose appointment any and all votes have been given or cast; and it shall also thereupon be the duty of the executive of each State to deliver to the electors of such State, on or before the day

¹ Supplementary to Chapter LVIII.

² 45 Stat. I. p. 945.

on which they are required by section 1 of this act to meet, six duplicates of original of the same certificate under the seal of the State; and if there shall have been any final determination in a State in the manner provided for by law of a controversy or contest concerning the appointment of all or any of the electors of such State, it shall be the duty of the executive of such State, as soon as practicable after such determination, to communicate under the seal of the State to the Secretary of State of the United States a certificate of such determination in form and manner as the same shall have been made; and the certificate or certificates so received by the Secretary of State shall be preserved by him for one year and shall be a part of the public records of his office and shall be open to public inspection; and the Secretary of State of the United States at the first meeting of Congress thereafter shall transmit to the two Houses of Congress copies in full of each and every such certificate so received at the State Department.

440. The statutes provide for transmitting the certificates of the action of the electors in each State to the President of the Senate.—The act approved May 29, 1928, provides:

That the electors shall make and sign six certificates of all the votes given by them, each of which certificates shall contain two distinct lists, one of the votes for President and the other of the votes for Vice President, and shall annex to each of the certificates one of the lists of the electors which shall have been furnished to them by direction of the executive of the State.

441. Certificates of the votes of the electors in the several States for President and Vice President are transmitted to the President of the Senate who may in case of delay send for them.

The act of May 29, 1928, provides:

That the electors shall dispose of the certificates so made by them and the lists attached thereto in the following manner:

First. They shall forthwith forward by registered mail one of the same to the President of the Senate at the seat of government.

Second. Two of the same shall be delivered to the secretary of state of the State, one of which shall be held subject to the order of the President of the Senate, the other to be preserved by him for one year and shall be a part of the public records of his office and shall be open to public inspection.

Third. On the day thereafter they shall forward by registered mail two of such certificates and lists to the Secretary of State at the seat of government, one of which shall be held subject to the order of the President of the Senate. The other shall be preserved by the Secretary of State for one year and shall be a part of the public records of his office and shall be open to public inspection.

Fourth. They shall forthwith cause the other of the certificates and lists to be delivered to the judge of the district in which the electors shall have assembled.

SEC. 5. That when no certificate of vote and list mentioned in this Act from any State shall have been received by the President of the Senate or by the Secretary of State by the third Wednesday in the month of January after the meeting of the electors shall have been held, the President of the Senate, or, if he be absent from the seat of government, the Secretary of State shall request, by the most expeditious method available, the secretary of state of the State to send up the certificate and list lodged with him by the electors of such State; and it shall be his duty upon receipt of such request immediately to transmit same by registered mail to the President of the Senate at the seat of government.

SEC. 6. That when no certificates of votes from any State shall have been received at the seat of government on the fourth Wednesday of the month of January, after the meeting of the electors shall have been held, the President of the Senate, or, if he be absent from the seat of government, the Secretary of State shall send a special messenger to the district judge in whose custody one certificate of votes from that State has been lodged, and such judge shall forthwith transmit that list by the hand such messages to the seat of government.